

NS

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Caption:
Michael Gyda, PhD

COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION

Full name(s) of Plaintiff(s)

v.
Federal Bureau of Investigation (FBI), Crime Laboratory
United States Department of Energy Office of Science (DOE-OS)
Oak Ridge Institute for Science and Education (ORISE)
Oak Ridge Associated Universities (ORAU)

CIVIL ACTION
NO. 13

7591

Full name(s) of Defendant(s)

This action is brought for discrimination in employment pursuant to (check only those that apply):

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission, and you must have been at least 40 years old at the time you believe that you were discriminated against.

☐ Americans with Disability Act of 1990, as codified, 42 U.S.C. §§ 12112-12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

☐ Pennsylvania Human Relations Act, as codified, 43 Pa. Cons. Stat. §§ 951-963 (race, color, family status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals).

NOTE: In order to bring suit in federal district court under the Pennsylvania Human Relations Act, you must first file a complaint with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations, and then you must wait one year prior to filing a lawsuit.

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name: Michael Gyda
Street Address: 3830 Marshall Road
County, City: Delaware, Drexel Hill
State & Zip: Pensylvania 19026
Telephone Number: 610-284-9309

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the caption on the first page. Attach additional sheets of paper as necessary.

Defendant Name: Federal Bureau of Investigation Crime Laboratory
Street Address: 2501 Investigation Parkway
County, City: Prince William County, Quantico
State & Zip: Virginia 20135
Telephone Number: (202) 324-3000 (Headquarters)

NOTE: Additional defendants information found in "Parties" of Complaint, attached

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer: Federal Bureau of Investigation Crime Laboratory
Street Address: 2501 Investigation Parkway
County, City: Prince William County, Quantico
State & Zip: Virginia 20135
Telephone Number: (202) 324-3000 (Headquarters)

II. Statement of the Claim

- A. The discriminatory conduct of which I complain in this action includes (*check only those that apply to your case*):

☒ Failure to hire me
☐ Termination of my employment
☐ Failure to promote me

- ☐ Failure to reasonably accommodate my disability
☐ Failure to reasonably accommodate my religion
☐ Failure to stop harassment
☐ Unequal terms and conditions of my employment
☐ Retaliation
☒ Other (specify): Arbitrary & capricious exclusion of almost all appropriately-trained scientists over age 40 from participating in the FBI Visiting Scientist Program.

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

- B. It is my best recollection that the alleged discriminatory acts occurred or began on or about: (month) April, (day) 17, (year) 2013.
- C. I believe that the defendant(s) (check one):
☒ is still committing these acts against me.
☐ is **not** still committing these acts against me.
- D. Defendant(s) discriminated against me based on my (check only those that apply and state the basis for discrimination, for example, what is your religion, if religious discrimination is alleged):
☐ race _____ ☐ color _____
☐ religion _____ ☐ gender/sex _____
☐ national origin _____
☒ age My date of birth is 01/26/1958 (Give your date of birth only if you are asserting a claim of age discrimination)
- E. The facts of my case are as follow (attach additional sheets of paper as necessary):

Please refer to attached Statement of the Complaint.

NOTE: *As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission, or the Philadelphia Commission on Human Relations.*

III. Exhaustion of Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on: September 5, 2013 (Date).

B. The Equal Employment Opportunity Commission (check one):

 has not issued a Notice of Right to Sue Letter.

X issued a Notice of Right to Sue Letter, which I received on 9/26/2013 (Date).

NOTE: *Attach to this complaint a copy of the Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

C. *Only plaintiffs alleging age discrimination must answer this question.*

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

X 60 days or more have passed.

 fewer than 60 days have passed.

D. It is my best recollection that I filed a charge with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct on: _____ (Date).

E. Since filing my charge of discrimination with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct (check one):

 One year or more has passed.

 Less than one year has passed.

IV. Relief

WHEREFORE, Plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs as well as (*check only those that apply*):

- ☒ Direct the defendant to hire the plaintiff.
- ☐ Direct the defendant to re-employ the plaintiff.
- ☐ Direct the defendant to promote the plaintiff.
- ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.
- ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- ☐ Direct the defendant to (*specify*): _____
- ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.
- ☐ Other (*specify*): _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 22 day of December, 2013.

Signature of Plaintiff
Address



3830 Marshall Road
Drexel Hill, PA 19026

Telephone number 610-284-9309
Fax number (*if you have one*) _____

COMPLAINT

1. This is an employment discrimination action brought by Michael Gyda, PhD ("Dr. Gyda") to recover damages against the FEDERAL BUREAU OF INVESTIGATION CRIME LABORATORY ("FBI LAB"), the UNITED STATES DEPARTMENT OF ENERGY, OFFICE OF SCIENCE ("DOE-OS"), the OAK RIDGE INSTITUTE FOR SCIENCE AND EDUCATION ("ORISE"), and the OAK RIDGE ASSOCIATED UNIVERSITIES ("ORAU") for the violation of his rights under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq. ("ADEA"), and any other applicable legislation.

JURISDICTION AND VENUE

2. Jurisdiction over Dr. Gyda's ADEA claim is conferred by 29 U.S.C. §621-634.

PARTIES

3. Plaintiff, Dr. Michael Gyda, resides at 3830 Marshall Road, Drexel Hill, Pennsylvania 19026, located within this judicial district, and where the alleged discrimination occurred.

4. Defendant FBI LAB is a Federal Agency conducting affairs at 2501 Investigation Parkway, Quantico, Virginia 20135, wherein the Visiting Scientist Program is conducted, and with Agency Headquarters located at 935 Pennsylvania Ave NW, Washington, DC 20535.

5. Defendant DOE-OS is a Federal Agency domiciled at 1000 Independence Avenue SW, Washington, DC 20585.

6. Defendant ORISE is a Division of ORAU, a subcontractor for the Federal Government, with the Science Education Program Office located at 100 ORAU Way, Oak Ridge, TN 37830.

7. Defendant ORAU is a subcontractor for the Federal Government, with offices located at 100 ORAU Way, Oak Ridge, TN 37830.

8. At all times relevant hereto, FBI LAB, DOE-OS, ORISE and ORAU ("FBI LAB, et al") have been located and conducted business within the above respective and applicable judicial districts.

9. At all times relevant hereto, FBI LAB, DOE-OS, ORISE and ORAU have been employers within the meaning of the ADEA.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. On or about April 16, 2013, Dr. Gyda contacted the ORISE Equal Employment Opportunity (EEO) Ombudsman, Ms. Rose Napier, by telephone for what he believed was a statement of discriminatory preference with respect to age regarding the eligibility requirements for participation in an ORISE-Administered Federal opportunity with the FBI Crime Laboratory known as The Visiting Scientist Program ("VSP", see attached Exhibits 1 and 2).
11. On or about April 23, 2013, Ms. Napier deferred Dr. Gyda's complaint to Mr. Ivan Boatner, Vice President and Legal Counsel, Oak Ridge Associated Universities (ORAU), with no further counseling on the matter.
12. On or about April 23, 2013, Dr. Gyda filed a formal complaint in writing via electronic mail ("email"), return receipt requested, with Mr. Boatner concerning the alleged discrimination under ADEA, as stipulated in the Equal Employment Opportunity Commission ("EEOC") protocol for filing such a claim with a Federal Agency (Exhibit 3).
13. Over the course of months between April 23, 2013 and July 17, 2013, and only after several attempts to determine the status of the internal ORISE investigation, Dr. Gyda finally received a brief response from Mr. Boatner dismissing said complaint, with no attempt at further instruction or guidance on how an aggrieved applicant should proceed (Exhibit 4).
14. On or about September 5, 2013, Dr. Gyda filed a Charge of Discrimination against FBI LAB, et al, with the Philadelphia District Office of the EEOC, Charge No. 530-2013-03500, charging it with unlawful age discrimination in connection with his immediate and arbitrary disqualification for employment in the application process regarding the VSP with FBI LAB.
15. By notice dated September 24, 2013 and which he received on September 26, 2013, Dr. Gyda was notified by the EEOC of his right to file a civil action against FBI LAB, et al (Exhibit 5).
16. This lawsuit has been timely filed within ninety (90) days of Dr. Gyda's receipt of the EEOC's right-to-sue notice.
17. On or about October 11, 2013, Dr. Gyda subsequently initiated a formal complaint process with the Philadelphia, PA FBI Field Office Internal EEO Counselor, Ms. Shannan Mumford-Wongus, as instructed and/or advised by a number of EEOC-referred attorneys skilled in the art of employment law as well as the Philadelphia District Office of the EEOC.

18. By notice dated November 26, 2013 and which he received on November 28, 2013, Dr. Gyda was notified by the Philadelphia, PA FBI Field Office EEO Counselor of his right to file a formal Discrimination Complaint with the FBI.

19. On or about December 7, 2013, Dr. Gyda filed a formal Discrimination Complaint in timely fashion (i.e., within 15 calendar days of receipt of Notice of Right to File) with the FBI EEO Officer by First Class USPS Mail to FBI Headquarters, Room 9304, 935 Pennsylvania Avenue NW, Washington, DC 20535-0001, and so postmarked (Exhibit 6).

BACKGROUND and FACTUAL ALLEGATIONS

20. Dr. Gyda is a vastly experienced (more than twenty [20] years), well trained and Ivy League educated Molecular Biologist and former University Faculty Member whose credentials far exceed the minimum requirements necessary to participate in the FBI Visiting Scientist Program be it not for at least one of the discriminatory preferences stated on page one (1) of the application, namely, "...the degree must be obtained within three years of the desired starting date...".

21. Dr. Gyda is 55 years of age. His date of birth is January 26, 1958. He earned and was awarded a doctoral degree in Cell, Molecular and Developmental Biology from the University of Pennsylvania School of Arts and Sciences/School of Medicine in 2007, which places Dr. Gyda at least six (6) years post-degree of the desired starting date for the FBI's VSP as of April/May, 2013, thereby arbitrarily and capriciously precluding him from participation in said program.

22. Dr. Gyda made enormous sacrifices in order to return to academia as a graduate student at a most non-traditional point in his life (as a middle-aged, Caucasian, American male) to pursue a terminal degree in Molecular-Cell Biology, a vocational calling intense beyond description, and to which he was never so passionate, dedicated and committed to achieving.

23. Following graduation in 2007, and by all accounts, after continuously submitting more than three thousand (3,000) job applications to career-appropriate positions from 2006 to the present, with little interest shown from any potential employer, advisors suspect that ageism may be playing a significant role in preventing him from becoming gainfully employed during these tumultuous socioeconomic times, despite his decades of scientific experience and expertise in several areas of biomedical research, fifteen (15) years holding adjunct faculty positions at area colleges, universities and professional schools, along with decades of entrepreneurial and business management experience.

24. Despite years of frustration stemming from the outcome of such lengthy, exhaustive and unsuccessful job search efforts, Dr. Gyda, as incredible as it may seem, continues to maintain a healthy degree of optimism with an eye toward developing creative alternate strategies in which to invest his vast education, training and experience in the most productive manner possible for the good of society and the benefit of mankind.

25. To this end, on or about April 13, 2013, one of a countless number of searches led Dr. Gyda to discover the VSP with the FBI Crime Laboratory.

26. For sometime prior to this, and after chasing unsuccessfully a series of existing environmental laboratories available for acquisition, Dr. Gyda became increasingly interested in changing careers to Forensic Science, with the ultimate goal of eventually establishing a fully-accredited, privately-held Forensic DNA/Biology Laboratory, given the highly unlikely probability at this point that he would ever be considered a viable candidate for a direct-hire position with an appropriate employer.

27. The FBI VSP offers an exceptionally rare opportunity, since the implementation of the 2009 FBI Quality Assurance Standards (QAS), for a scientist outside of the Forensic Sciences to gain entry to the field through participation in "qualifying" training and experience within an accredited Forensic Crime Laboratory.

28. In 2009 the FBI modified their QAS, effectively eliminating the possibility for any scientist not already working specifically in Human Forensic Biology and/or DNA Analysis and specifically within an accredited Forensic Crime Laboratory, to ever hope to gain entry into the field by mandating rigidly narrow and inflexible experience requirements as related to personnel (FBI 2009 QAS, Standard 5, Personnel).

29. Entry-level training positions do become available in State Crime Laboratories on rare occasion, however, as best as Dr. Gyda has been able to determine, ostensibly not a single Forensic Crime Lab Director with whom he communicated is willing to hire a candidate having both a terminal degree and decades of Molecular Biology/DNA analytical experience in a non-forensic setting for such positions, based on a variety of reasons, most or all of which are tenuous at best.

30. Despite the fact that there remains an almost insurmountable and growing backlog of DNA casework nationally that urgently requires competent, scientifically precise analysis as a result of the artificially suppressed, miniscule supply of accredited laboratories being overwhelmed by the demand for these services, the FBI LAB, et al, continues to refuse to change its application policy and eligibility criteria with respect to the VSP.

31. Such discrimination that immediately eliminates and excludes without cause an incredibly large number of otherwise qualified applicants from having the opportunity to embark on a productive career in Forensic Science where the need for such service remains great, is, quite frankly, unconscionable to the victims of violent crime and the families thereof awaiting in agony for justice.

32. To arbitrarily mandate that an applicant for the FBI VSP be no more than three years past the awarding of their degree is both pragmatically and statistically an overwhelmingly age-biased requirement, as only an infinitesimally minute fraction of all scientists holding degrees in an appropriate discipline, and who are over the age of forty, received their degrees within the stated three year window of application to the VSP (US Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System, National Science Foundation).

33. Furthermore, ORISE contends, through its EEO Ombudsman, that any scientist who graduated more than three years past has essentially "lost touch with mainstream science". This contention is not only preposterous, it is completely and utterly counter-intuitive. With accumulated years of work, increasing responsibility and continuing education post-graduation comes invaluable experience and assimilation of new knowledge, thereby making such a candidate even more attractive to any program whose mission is to promote an exchange of ideas and foster the development of innovative solutions designed to solve current and/or vexing problems within the discipline.

34. Dr. Gyda therefore claims that the eligibility requirements as stated on page one (1) of the application to the ORISE Research Participation Program at the FBI for the "Postgraduate" category of applicant violates the ADEA, and therefore his right, as well as the rights of almost all appropriately-trained scientists over forty (40) years of age, to be competitively considered for such an opportunity.

STATEMENT OF CLAIMS

COUNT I: VIOLATION OF THE ADEA

35. Dr. Gyda repeats and incorporates by reference the allegations of paragraphs 1 - 34 of the Complaint as if they were set forth in full.

36. The applicant eligibility requirements as set forth for the "Postgraduate" category of applicant to the FBI VSP thereby violates Dr. Gyda's right to an equal employment opportunity as protected by the ADEA.

PRAYER FOR RELIEF

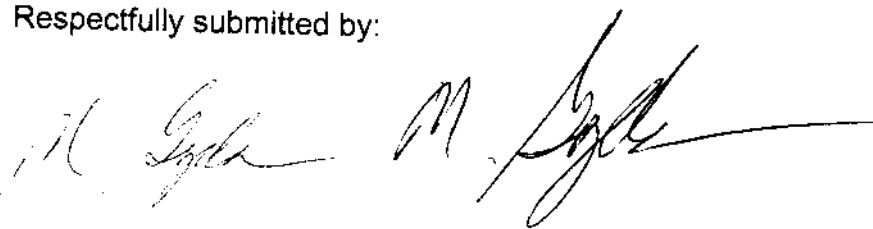
WHEREFORE, Dr. Gyda respectfully requests the Court to enter judgment in his favor and against FBI LAB, et al, and to accord him the following relief:

- VSP;
- (a) Direct the defendant(s) to invite Dr. Gyda to participate in the FBI
 - (b) Grant injunctive relief as deemed appropriate by the Court;
 - (c) Grant compensatory damages for his economic and non-economic loss in an amount, if any, authorized by the ADEA;
 - (d) Grant punitive damages to punish and deter FBI LAB, et al, from future acts of employment discrimination in an amount, if any, authorized by the ADEA;
 - (e) Grant liquidated damages in an amount equal to twice that of what Dr. Gyda's back pay losses would have been commencing from July 1, 2013 forward to the present, based on the stipend/salary provided to VSP participants at the appropriate scale, as authorized by the ADEA;
 - (f) Grant an award of reasonable counsel fees and litigation costs to compensate Dr. Gyda for having to prosecute this action against FBI LAB, et al; and,
 - (g) Grant such other legal and equitable relief as may be just and proper under the circumstances.

JURY DEMAND

Dr. Gyda demands a trial by jury on all issues in this action that are so triable by law.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read 'Michael Gyda', followed by a long horizontal flourish.

Michael Gyda, PhD
Pro Se Litigant

On this day, December 22, 2013

ORISE Research Participation Program at the FBI

Instructions to Applicant

- Submit completed application form and attach the following:
 1. Resume (include list of any papers, presentations, or publications)
 2. Two copies of reprints or abstracts, if available
 - Submit **two references** from persons familiar with your educational and professional qualifications (include your thesis or dissertation adviser, if applicable).
 - Send **university transcripts** (all schools attended) to the address below (copies accepted).
-

Eligibility Requirements:

1. **Postgraduate:**
 - a. Degree must be received within three years of the desired starting date or completion of all requirements for the degree should be expected prior to the starting date.
 - b. U.S. citizenship
 2. **Student:**
 - a. Current student in good standing in an undergraduate or graduate degree program (if undergraduate, must be sophomore or higher level)
 - b. Cumulative grade point average of 2.50 or higher, based on A=4.0 scale
 - c. U.S. citizenship
 - d. Minimum twelve credit hours per academic year
 3. **Faculty:**
 - a. Full-time permanent faculty member at an accredited U.S. college or university
 - b. U.S. citizenship
 - c. Certification of salary
-

Additional Information

- The complete application and supporting materials will be reproduced for review by program officials.
 - Incomplete applications may not be considered.
 - Additional information may be required if an appointment is offered.
 - Applications are accepted throughout the year.
-

Return completed materials to:

Betty Bowling
Research Participation Programs
Oak Ridge Institute for Science and Education
P.O. Box 117, MS 36
Oak Ridge, TN 37831-0117
Fax #: (865) 241-5219

For additional information about opportunities, please visit <http://see.ornl.gov> or contact:

Betty Bowling, (865) 576-8503, betty.bowling@ornl.gov

Sharon Kern, (865) 576-9361, sharon.kern@ornl.gov

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ORISE Research Participation Program at the FBI

Counterterrorism/Forensic Science Research Unit (FBI-CFSRU)

Application

Please type or print clearly and return the completed original application and all supporting materials to Oak Ridge Institute for Science and Education, Research Participation Programs, P.O. Box 117, MS 36, Oak Ridge, TN 37831-0117.

Please check one: ☐ Full-time ☐ Part-time ☐ Summer only

Date Available: _____

Apply as: ☐ Faculty ☐ Postgraduate ☐ Graduate Student ☐ Undergraduate Student
☐ SO ☐ JR ☐ SR

Highest Degree Received: _____ Date of Graduation: _____
 Date Received: _____ Degree Discipline: _____

1. Name: _____
 (Last) (First) (Middle)

2. Current Mailing Address: (for overnight delivery)

Address: _____
 City: _____
 State: _____
 Zip: _____
 Phone: _____
 Fax: _____
 E-mail: _____

3. Have you ever been investigated for a Security Clearance? ☐ Yes ☐ No

4. Citizen of: _____

5. U.S. citizen? ☐ Yes ☐ No (Guidelines stipulate that only U.S. citizens will be eligible for these programs.)

6. Academic history. (Begin with current or most recent; list all colleges and universities attended.)

Institution/Campus	Dates		Degree	Date Awarded or Expected	Major	GPA*
	From	To				

*GPA basis: A=4, B=3, C=2, D=1. Attach explanation if your transcript uses different basis.

12. Describe relevant educational or research experiences. Include patents you have received or for which you have applied.

13. Describe the educational and professional goals you expect to achieve as a result of participating in this program; include your future career plans.

14. How did you find out about this program? _____

The complete application and supporting materials will be reviewed by ORISE and reproduced for submission to the host facility for review and selection.

Signature: _____ Date: _____

Return to: Oak Ridge Institute for Science and Education, Attn: Betty Bowling, P.O. Box 117, MS 36, Oak Ridge, TN 37831-0117, Fax (865) 241-5219.

ORISE Research Participation Program at the FBI

Demographic Information

Applicant demographic data are important in assessing the effectiveness of our efforts to solicit applications from a diverse population. Your submission of this information will assist us in this regard. We appreciate your cooperation. If you decline to provide this information, it will in no way affect consideration of your application.

Race/Ethnicity: *(check one only)*

- ☐ American Indian or Alaska Native
☐ Asian or Pacific Islander
☐ Black or African
☐ Caucasian
☐ Hispanic
☐ Other: _____

Gender:

- ☐ Female
☐ Male

Date of Birth:

Month: _____ Day: _____ Year: _____

Disability: *(Physical or mental impairment that substantially limits one or more major life activities; for example, blindness, deafness, or mobility impairment.)*

- ☐ Yes
☐ No

(6)

ORISE Research Participation Program at the FBI

Reference (A letter may be substituted, if more convenient.)

Applicant:

(Last Name)

(First Name)

(Middle Name)

How long and in what association have you known the applicant?

Thesis /Dissertation Advisor []

In a group of 100 science and math students of comparable age and experience, how would you rate the applicant with respect to the following **PERSONAL CHARACTERISTICS**?

	Below Average	Average	Above Average	Outstanding	Superior	Inadequate Observation
Motivation toward a productive career						
Growth during total period observed						
Imagination and originality of thought						
Emotional maturity and stability						
Ability to work with others						
Independence and self-reliance						
Leadership potential						

In a group of 100 science and math students of comparable age and experience, how would you rate the applicant with respect to the following **SCIENTIFIC CAPABILITIES**?

	Below Average	Average	Above Average	Outstanding	Superior	Inadequate Observation
Mastery of fundamental knowledge in field						
Skill/originality of research project design						
Laboratory skill and technique						
Ability to communicate (written/oral)						

Add any descriptive comments that will assist in providing a complete picture of the applicant's character, attitude, abilities, and potential for research. Please comment on both the applicant's weak and strong points. Use additional sheets if necessary.

COMMENTS:

Signature:

Date:

Typed/Printed Name:

Title:

Address:

Phone:

Fax or mail documents to: (DO NOT mail originals, if they have been faxed.)

ORISE, FBI Programs, Oak Ridge Institute for Science and Education, P.O. Box 117, M.S. 36, Oak Ridge, TN 37831-0117, FAX: (865) 241-5219 – Attn: Betty Bowling

ORISE Research Participation Program at the FBI

Reference (A letter may be substituted, if more convenient.)

Applicant:

(Last Name)

(First Name)

(Middle Name)

How long and in what association have you known the applicant?

Thesis /Dissertation Advisor []

In a group of 100 science and math students of comparable age and experience, how would you rate the applicant with respect to the following **PERSONAL CHARACTERISTICS**?

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Ability to work with others						
Independence and self-reliance						
Leadership potential						

In a group of 100 science and math students of comparable age and experience, how would you rate the applicant with respect to the following **SCIENTIFIC CAPABILITIES**?

	Below Average	Average	Above Average	Outstanding	Superior	Inadequate Observation
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Skill/originality of research project design						
Laboratory skill and technique						
Ability to communicate (written/oral)						

Add any descriptive comments that will assist in providing a complete picture of the applicant's character, attitude, abilities, and potential for research. Please comment on both the applicant's weak and strong points. Use additional sheets if necessary.

COMMENTS:

Signature:

Date:

Typed/Printed Name:

Title:

Address:

Phone:

Fax or mail documents to: (DO NOT mail originals, if they have been faxed.)

ORISE, FBI Programs, Oak Ridge Institute for Science and Education, P.O. Box 117, M.S. 36, Oak Ridge, TN 37831-0117, FAX: (865) 241-5219 – Attn: Betty Bowling

Research Participation Program at the Federal Bureau of Investigation



Description: opportunities to participate in advancement of forensic science, social and behavioral sciences, chemical and toxicology sciences.

Discipline(s): life, health, and medical sciences; physical sciences; social and behavioral sciences; physical sciences; life, health, and medical sciences; forensic sciences; toxicology; all chemistry and biology subdisciplines

Eligibility: U.S. Citizens Only. Must have received an undergraduate or graduate degree in biology, microbiology, chemistry, biochemistry, geology, environmental science, toxicology, anthropology, or statistics within three years of the desired starting date; or serve as a faculty member at an accredited U.S. college or university.

Location(s): Virginia. FBI Academy (Quantico, Va.)

Duration: Appointments are full time for one year; some sabbatical appointments; Appointments are renewable up to four years

Additional Duration Information:

Frequency: continuing

Awards made: number varies

Deadline(s): applications accepted on year-round basis

Benefits: monthly stipend based on academic level; reimbursement of inbound travel expenses may be authorized.

Funding source(s): Federal Bureau of Investigation

How to apply: [Click here to apply](#)

Contact(s):

Project Manager

Program Specialist

Sharon Kern
sharon.kern@orau.org
(865) 576-9361

Betty Bowling
betty.bowling@orau.org
(865) 576-8503

Other Educational Opportunities || ORISE Home Page

10/14/2011 11:07:57 AM

Dear Mr. Boatner,

April 23, 2013

Just a follow up email from our brief telephone conversation of last week on or about Tuesday, April 16, 2013, regarding what I believe to be a violation of EEOC law with respect to either employment or training programs supported by federal funds, specifically the Visiting Scientist Program with the FBI Crime Lab (application attached).

As per EEOC protocol with respect to EEO claims against federally funded agencies, I wish to file a formal complaint with the ORISE EEO Counselor for the discriminatory practices as described below. Although I initially contacted Ms. Rose Napier on April 16, the EEO Counselor for ORISE, Ms. Napier deferred my complaint to your office.

I am a vastly experienced, well trained and Ivy League educated molecular biologist and former faculty member who exceeds the minimum requirements necessary to participate in the FBI Visiting Scientist Program be it not for at least one of the discriminatory preferences stated on page one (1) of the application (highlighted for your convenience), "the degree must be obtained within three years of the desired starting date...". I am very much interested in changing careers to forensic science, with the intention of eventually launching a fully accredited, FBI-compliant private forensic biology laboratory, and this program offers an exceptionally rare opportunity post 2009 for a scientist outside of forensic sciences to gain entry through valid training and experience in a forensic crime lab.

In 2009 the FBI modified their quality assurance standards which effectively eliminated the possibility of any scientist not already working in forensic biology to ever hope to gain entry into the field, by mandating rigidly narrow experience requirements for personnel. Yes, there are rare entry-level training positions that do become available in state crime labs, but not a single forensic crime lab director will hire a candidate with a terminal degree and decades of DNA analytical experience for such positions. Thus, in light of the fact that there remains an incredible backlog of DNA casework nationally that urgently needs analysis as a result of the supply of accredited providers being overwhelmed by the demand for these services, in conjunction with the escalating effects of corporate control over the economy evidenced by the growing numbers of displaced scientists from industry, a flood of new graduates in the sciences being churned out every year far outnumbering available jobs, and academic posts shrinking as universities clamber aboard the corporate bandwagon of obscene greed by slashing tenured faculty positions to hoard money, such discrimination that immediately eliminates without cause a large number of otherwise qualified applicants from having a chance at embarking on a productive career in forensic science where the need for such service remains great, is, quite frankly, unconscionable in terms of justice for those victims and families thereof waiting in agony for results, as well as a possible violation of EEOC laws.

I therefore claim that the eligibility requirements as stated on page one (1) of the ORISE Research Participation Program at the FBI application for the "Postgraduate" category of applicant violates EEOC age discrimination laws, and therefore my right to be competitively considered for such an opportunity. I will not include the details of my rationale for this claim here, but absent an appropriate and timely investigation and suitable remedy from your office to this complaint, I fully intend to file a formal suit in the United States District Court for the Eastern District of Pennsylvania, where the basis for my charge will be outlined in detail.

Thank you in advance for your consideration in this matter, and I look forward to hearing back from you.

Respectfully yours,
mike gyda

①

From: Boatner, Ivan
Sent: Thursday, June 20, 2013 5:09 PM
To: Michael
Cc: Myers, Kathy; Kern, Sharon; Holmes, Linda
Subject: RE: EEO complaint...Third Attempt

Mr. Gyda,

I apologize for the delay in my response. I am trying to coordinate with all the appropriate individuals on my end to make sure we have consensus before responding. For a variety of reasons, that is taking longer than I anticipated.

I cannot advise you on how you should proceed, but I would ask that you consider refraining from "filing charges with the US District Court" until I provide you with a response to your original concern. Unfortunately, I will be on travel all of next week and am unsure whether I will be able to complete a response until the following week.

Your consideration is appreciated.

Sincerely,

Ivan A. Boatner
 Vice President and General Counsel
 Oak Ridge Associated Universities
 P.O. Box 117, MS 27
 100 ORAU Way
 Oak Ridge, Tennessee 37831
 (865) 576-3054
Ivan.Boatner@orau.org
www.orau.org

----- Original Message -----

From: Boatner, Ivan
To: 'Michael'
Cc: Myers, Kathy ; Kern, Sharon ; Holmes, Linda
Sent: Wednesday, July 17, 2013 12:57 PM
Subject: Complaint

Mr. Gyda,

The FBI's Visiting Scientist Program (VSP) is a training/fellowship program designed to give early-career scientists, regardless of their age, an opportunity to obtain unique work experience as well as an opportunity to enhance their professional development. The criterion regarding the 5-year restriction is not in any way a function of a person's age. There are no program restrictions based on age. The VSP has participants of various ages that have made career changes and applied to the program after receiving a degree. The VSP also allows for faculty sabbaticals which allow full-time faculty members from an accredited U.S. college or university to come to the FBI and obtain new experiences which they can take back to their college to be shared with their students. The VSP is open to participants of diverse ages provided they meet the non-discriminatory program requirements.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Michael Gyda
3830 Marshall Road
Drexel Hill, PA 19026

From: Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127

On behalf of person(s) aggrieved whose identity
is CONFIDENTIAL (29 CFR § 1601.7(e))

Charge No.

530-2013-03500

EEOC Representative

Legal Unit

Telephone No.

(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statute
- ☐ Your charge was not timely filed with EEOC. In other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination. Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge
- ☐ Other (briefly state) _____

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** from your receipt of this Notice, otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible.

On behalf of the Commission

Enclosure(s)

Information Sheet

Spencer H. Lewis, Jr., District Director

(Date Mailed)

9/24/13

cc: OAK RIDGE ASSOCIATED UNIVERSITIES

Dan Standley, Vice President, Human Resources (for Respondent)

(DATE Received: 9/26/13)



U.S. Equal Employment Opportunity Commission
Philadelphia District Office

801 Market Street
Suite 1300
Philadelphia, PA 19107
(215) 440-2602
TDD: 1-800-669-6820
Fax: (215) 440-2604
1-800-669-4000

Respondent: OAK RIDGE ASSOCIATED UNIVERSITIES
EEOC Charge No.: 530-2013-03500
FEPA Charge No.:

September 24, 2013

Michael Gyda
3830 Marshall Road
Drexel Hill, PA 19026

Dear Mr. Gyda:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

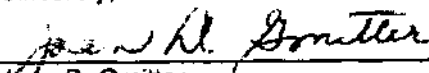
- ☐ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☒ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)
- ☐ The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

Please be aware that we will send a copy of the charge to Virginia Division of Human Rights Office of the Attorney General 900 East Main St. Richmond, VA 23219 as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,


Jean D. Gmitter
Supervisory Investigator
(215) 440-2603

NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

SUBJECT: NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

FROM: EEO Counselor - Shannan Mumford-Wongus **DATE:** 11/26/2013

TO: Michael Gyda
(Name of Person Counseled)

This is to inform you that because the matter you brought to my attention has not been resolved to your satisfaction, you are now entitled to file a discrimination complaint based on race, color, religion, sex, national origin, physical or mental handicap, age, sexual orientation parental status, genetic information, and/or reprisal. If you file a complaint, it must be in writing, signed, and filed, in person or by mail within 15 calendar days after receipt of this notice.

You will be provided a form (DOJ 201-A) for filing your complaint. If filed by mail, it must be done through the U.S. Post Office Department since the postmark is used to determine the date filed. **The internal FBI mailing system is not acceptable.** The complaint is to be filed with the FBI's Equal Employment Opportunity Officer at the following address:

Equal Employment Opportunity Officer
Federal Bureau of Investigation
Room 9304
935 Pennsylvania Avenue, Northwest
Washington, D.C. 20535-0001

The complaint must be specific and encompass only those matters discussed with me. If you retain an attorney or any other person to represent you, you and your representative must immediately notify the EEO Officer, in writing. You and/or your representative will receive a written notice of receipt of your discrimination complaint. Regarding your contacts with your representative, ensure you comply with instructions in the Prohibited Communications form.

Complaint of Discrimination

(see instructions on reverse)

PRIVACY ACT STATEMENT: 1. AUTHORITY: The authority to collect this information is derived from 42 U.S.C. Section 2000e-16, 29 CFR Sections 1614.106 and 1614.108.
 2. PURPOSE AND USE: This information will be used to document the issues and allegations of a complaint of discrimination based on race, color, sex (including sexual harassment), religion, national origin, age, disability (physical or mental), sexual orientation or reprisal.

The signed statement will serve as the record necessary to indicate an investigation will become part of the complaint file during the investigation; hearing, if any, adjudication; and appeal, if one, to the Equal Employment Commission.
 3. EFFECTS OF NON-DISCLOSURE: Submission of this information is MANDATORY. Failure to furnish this information will result in the complaint being returned without action.

1. Complainant's Full Name

Michael Gyda

2. Your Telephone Number (including area code)

Street Address, RD Number, or Post Office Box Number

Home 610-284-9309

City, State and Zip Code

Work

Drexel Hill, PA 19026

3. Which Department of Justice Office Do You Believe Discriminated Against You? FBI/DOE

4. Current Work Address

N/A

A. Name of Office Which You Believe Discriminated Against You.

A. Name of Agency Where You Work

FBI Crime Laboratory

N/A - Applicant

Visiting Scientist Program (VSP)

B. Street Address of Your Agency

B. Street Address of Office

City, State and Zip Code

2501 Investigation Parkway

C. City, State and Zip Code

Title and Grade of Your Job

Quantico, VA 22135

Unemployed

5. Date on Which Most Recent Alleged Discrimination Took Place

6. Check Below Why You Believe You Were Discriminated Against?

Month Day Year

April 16 2013

☐ Race or Color (Give Race or Color)☐ Religion (Give Religion)☐ Sex (Give Sex) ☐ Male ☐ Female☐ Sexual Harassment☒ Age (Give Age) 55☐ National Origin (Give National Origin)☐ Disability ☐ Physical ☐ Mental☐ Sexual Orientation☐ Reprisal☐ Parental Status☐ Class Complaint☐ Genetic Information

7. Explain how you were discriminated against (Treated differently from other employees or applicants) Because of Your Race, Color, Religion, Sex, Age, Handicap, Reprisal, or National Origin (You may continue your answer on another sheet of paper if you need more space).
 In spite of the FBI VSP attaching the standard EEO statement to the program, it never-the-less actively discriminates against candidates over the age of forty (40) by the very nature of its applicant eligibility requirements: post-graduate applicants are ineligible to participate in the program if their degree was granted more than three (3) years prior to the "desired starting date" - eliminating the vast majority of doctoral-level candidates who could potentially apply for this mutually beneficial opportunity.

8. What Corrective Action Do You Want Taken on Your Complaint?

Change the eligibility criteria to eliminate the discriminatory post-graduate application window, thereby permitting myself (and others) to be competitively considered as viable candidates.

9. A) I Have Discussed My Complaint With an Equal Employment Opportunity Counselor and/or other EEO Official:

B. Name of Counselor:

DATE OF FIRST CONTACT WITH EEO OFFICE:

DATE OF RECEIPT OF NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR

October 11, 2013

November 28, 2013

Shannan Mumford

Wongus

☐ I Have Not Contacted an EEO Counselor

10. Date of This Complaint: Month Day Year

11. Sign Your (Complainant's) Name Here:

December 7, 2013

Michael Gyda

READ CAREFULLY

This form should be used only if you, as an applicant for Federal Employment or as a Federal Employee, think you have been discriminated against because of race, color, sex (including sexual harassment), religion, national origin, age, disability (physical or mental), sexual orientation, parental status genetic information or reprisal by a FEDERAL agency, and have presented the matter for informal resolution to an Equal Employment Opportunity (EEO) Counselor within 45 calendar days of the date the incident occurred or, if a personnel action, within 45 calendar days of its effective date.

Your complaint must be filed within 15 calendar days of the date of your receipt of the Notice of Final Interview with the EEO Counselor. If the matter has not been resolved to your satisfaction within 30 calendar days of you contacted the EEO Office and the final counseling interview has not been completed within that time, you have the right to file a complaint at any time thereafter up to 15 calendar days after your receipt of the Notice of Final Interview. These time limits will only be extended under limited circumstances.

The EEO Counselor or the EEO Officer will assist you in preparing your complaint, upon request.

Your written complaint should be filed by you with the EEO Officer for the Bureau where the alleged discrimination occurred.

You may have a representative at all stages of the processing of your complaint.

You will have an opportunity to talk with an impartial investigator and present all the facts which you believe support your complaint of discrimination.

After the investigation of your complaint has been completed, you will be furnished a copy of the investigative file. You will then be given an opportunity to request a final agency decision by the Department of Justice's Complaint Adjudication Officer (CAO) or a hearing before the Equal Employment Opportunity Commission (EEOC), which will be conducted by an Administrative Judge of the EEOC. At the hearing, which will be held at a convenient time and place, you may present witnesses and other evidence in your behalf.

If your complaint is based upon sexual orientation or parental status, your investigative file will be reviewed by the Department of Justice's CAO and a final decision will be rendered with no entitlement for further administrative review.

If a hearing is held on your complaint, the CAO will take final action on your complaint by issuing a final order. The final order will notify you whether or not the agency will fully implement the Administrative Judge's decision and it will explain your appeal rights. If you elect to have an immediate final agency decision without having a hearing, the CAO will take final action on your complaint by issuing a final agency decision which consists of findings on the merits of each issue in the complaint. The final agency decision will also include an explanation of your appeal rights.

If you are not satisfied with the final order or agency decision, you have the right to file a written appeal with the EEOC, Washington, DC, within 30 calendar days after your receipt of the final order or final agency decision. A copy of your appeal must be provided to the agency at the same time it is filed with the EEOC.

If your complaint is based on race, color, sex (including sexual harassment), religion, national origin, age, disability (physical or mental) or reprisal, you also have the right to file a civil action in the appropriate Federal District Court:

- (a) Within 90 days of receipt of the final action on an individual or class complaint if no appeal has been filed;
- (b) Within 180 days of filing an individual or class complaint if an appeal has not been filed and final action has been taken;
- (c) Within 90 days of receipt of the Commission's final decision on appeal; or
- (d) After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

NOTE: Special statutory provisions (PL 93-259) relating to the right to file a civil action apply to age discrimination complaints. Please consult with your EEO Officer for assistance.